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BY ECF

The Honorable Nicholas G. Garaufis
United States District Court
Eastern District of New York
United States Courthouse
Room 1416 S
225 Cadman Plaza East
Brooklyn, New York 11201

United States v. City of New York, 07-CV-2067 (NGG)

Dear Judge Garaufis:

I am writing in response to your order of October 26th, which denied the parties' request to postpone the dates for administration of the next entry-level firefighter exam until late February or March of next year. Your Honor's order indicated that the parties and the Special Master should work to set a definite schedule to present to the Court for approval. While the parties have agreed to specific dates in late February or March 2012 for the administration of the new test, it is possible that some additional time may be needed by the experts and the parties before the new test is readied for its first administration.¹ It is the collective judgment of the parties and the Special Master that some degree of flexibility in the announced schedule should be preserved.

As the City noted in its October 26th letter, one of the principal reasons that the parties' experts have recommended postponing the administration of the test is to allow time for the development of additional test forms, which are required to help prevent cheating. Once the alternative forms of the test are developed, it will be necessary to

¹ The parties' agreement to this specific schedule is based on a detailed, step-by-step schedule that was developed with careful consideration and input from the parties and their experts. That schedule requires the parties to state at specified intervals whether they consent to the test development process proceeding to the next stage. The parties' agreement regarding the specific test dates assumes that all parties state their consent at these intervals.

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evaluate them. The process of evaluating the equivalency of the test forms involves several steps, some of which depend on the participation of third parties in the study process. The equivalency testing also entails a number of logistical issues that the experts are working on but have not yet resolved. As a result, the experts cannot predict with certainty precisely when the process of developing new equivalent forms will be completed.

Much of the uncertainty over when it will be feasible to administer the exam will be resolved once the equivalency study is completed, and, on that understanding, the City expects to be prepared to announce the new administration dates no later than January 27, 2012. As it stands, applicants are expecting to receive their admission cards and to be assigned to testing centers no later than December 10, 2011. If no postponement is announced and communicated to applicants prior to the time a new date certain is set, there is a potential for considerable confusion among applicants. Accordingly, the parties and the Special Master concur that applicants should be informed now that the start of the test administration will be deferred until late February or March. The parties also will undertake to report to the Court the precise test administration dates as soon as it is feasible to do so.

Respectfully submitted,

/s/ Mary Jo White

Mary Jo White

cc: All Counsel of Record